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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Telephone Number Portability

CC Docket No. 95-116

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Bell Atlantic's Response to Petitions for Reconsideration

Bell Atlantic responds to two petitions for reconsideration of the Commission's number portability Order¹ that concern issues not raised in Bell Atlantic's own reconsideration request, the petitions filed by ACSI and MCI.

ACSI asks the Commission to make its interim number portability cost recovery rules retroactive.² As Bell Atlantic demonstrated in its petition for reconsideration, the Commission lacks jurisdiction over these service arrangements, which are jurisdictionally intrastate. Section 251(e)(2) gives the Commission jurisdiction only over cost recovery for the establishment of long-term portability. As the Senate Report indicates, "The method of providing interim number portability and the amount of compensation, if any, for providing such service is subject to the negotiated interconnection agreement,"³ not this provision.

Even if the Commission had jurisdiction over these rates, it should not make its rules retroactive. First, there is no precedent for making a rule effective on a date prior to its promulgation. Second, in section 251(e)(2), Congress required the Commission to adopt rules, and

¹ *Telephone Number Portability*, 11 FCC Rcd 8352 (1996).

² ACSI Petition at 5.

³ S. Rep. No. 23, 104th Cong., 1st Sess. at 51 (1995).

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obviously understood that the Commission would need a period of time to do so. Had Congress wanted these rules to be retroactive to the date of enactment of the Telecommunications Act, Congress surely would have said so. Third, ACSI's proposal amounts to retroactive ratemaking, in which the Commission may not engage.

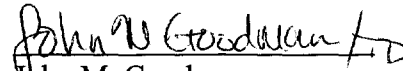
MCI asks the Commission to explain further how interstate access charges should be imposed on calls delivered by means of an interim portability arrangement. Bell Atlantic agrees with MCI's proposal, as outlined on pages 4 and 5 of its petition. This is like the arrangement Bell Atlantic has negotiated with other exchange carriers pursuant to section 252.

A couple of additional refinements, however, are in order if the Commission is going to act on MCI's request. First, if the interexchange carrier has tandem interconnection, then access charges related to that form of interconnection — including such entrance facilities, tandem switching and tandem switched transport as may be used — should be collected by the carrier providing those services.⁴ Second, MCI's proposal seems to assume that each exchange carrier will bill the interexchange carrier for its own portion of the access charges. The Commission should not foreclose arrangements in which one exchange carrier bills the entire amount and remits the other exchange carrier its share. Third, because these are toll calls for which the new entrant is receiving a portion of the access charges, the new entrant should not also impose local call termination charges on the incumbent carrier.

⁴ Although the Commission's rules place the incidence of the transport interconnection charge (TIC) at the end office, the recent interconnection order raises the question of whether 25 percent of the TIC in fact recovers costs for tandem-related services and therefore should be recovered at the tandem. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Dkt. No. 96-98, ¶ 723 (rel Aug. 8, 1996).

For these reasons, the Commission should deny ACSI's petition for reconsideration.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John M. Goodman", followed by a stylized flourish.

John M. Goodman

Attorney for Bell Atlantic

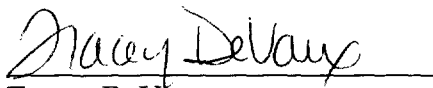
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Dated: September 27, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 1996 a copy of the foregoing "Bell Atlantic's Response to Petitions for Reconsideration" was sent via first class mail, postage prepaid, to the parties on the attached list.


Tracey DeVaux

* Via hand delivery.

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